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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,240	11/20/2003	Lewis Michael Popplewell	IFF-56	9921
48080 7590 09/20/2007 INTERNATIONAL FLAVORS & FRAGRANCES INC. 521 WEST 57TH ST NEW YORK, NY 10019				
			EXAMINER YU, GINA C	
			ART UNIT 1617	PAPER NUMBER
			MAIL DATE 09/20/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/718,240	<b>Applicant(s)</b> POPPLEWELL ET AL.	
	<b>Examiner</b> Gina C. Yu	<b>Art Unit</b> 1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on July 10, 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2 and 4-28 is/are pending in the application.
- 4a) Of the above claim(s) 14-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Receipt is acknowledged of amendment filed on July 10, 2007. Claims 1, 2, 4-28 are pending, of which claims 14-28 have been withdrawn from consideration. Claim rejection made under 35 U.S.C. § 112, second paragraph and § 102 (b) and (e) are withdrawn in view of the claim amendment made by applicants. Obviousness double patenting rejections are withdrawn in view of the terminal disclaimers that are concurrently filed with the amendment.

#### ***Terminal Disclaimer***

The terminal disclaimers filed on July 10, 2007, disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S Patent No. 7112512, 7119057, and 7105064 have been reviewed and are accepted. The terminal disclaimer has been recorded.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

A new limitation "wherein said fragrance and said solvent together have greater than about 60 weight percent with a ClogP of greater than about 3.3" does not have support in the original disclosure. Similarly, the limitation in claim 11, which requires that the core contains a mixture of a fragrance, stabilizer, and a solvent", "wherein greater than about 50 % weight percent said mixture has a ClogP of greater than about 3.3" also lacks support.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1, 2, 4, 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caswell (US 6958313 B2) in view of Bacon (US 5500138).**

Caswell discloses polyvinyl alcohol film encapsulating enduring fragrance materials for fabric softener. See abstract. The reference also teaches that it is preferred to have at least 7 different enduring perfume ingredients, meeting instant claim 10. Examples 3-8 show the amount of perfume materials added in the fabric softener compositions. See instant claim 13.

Although the reference teaches that solvents are used up to 10 % by weight, generally, differences in concentration or temperature will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration or temperature is critical. "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." See In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235

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(CCPA 1955). In this case, the reference teaches that the solvents enhance stability and clarity of the formulation. It also teaches that low odor detection threshold perfumes can be used up to 20 % to modify the perfume odor character, which suggests that depending on the desired clarity and odor characteristics of the composition, the skilled artisan would have discovered an optimal weight amount for the solvents/stabilizer by routine experimentation.

Caswell does not disclose the ClogP value of the perfume materials used in the prior art invention.

Bacon teaches in Table 1 the ClogP Table of the perfumes that are used in Enduring Perfume A of Caswell. The Bacon reference teaches that the example perfume composition of Enduring Perfume A comprises 65 % of perfume materials having Clog P of 4.0 or higher. See instant claim 2.

While Casswell does not specifically exemplify a formulation using hydrophobic solvent of the instant claims, the reference teaches that adding diluents and stabilizers such as diethyl phthalate to the formulation is obvious. See col. 43, lines 63-67; col. 49, line 66- col. 50, line 35; claims 4, 8, 11, and 12. Adding the suggested diluents and stabilizer, diethyl phthalate, which is also applicants' solvent, which would obviously result in the ClogP limitation of the encapsulated material as presently claimed by applicants.

**Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caswell as applied to claims 1, 2, 4 and 7-13 as above, and further in view of Birch et al. (US 6927195 B2).**

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Caswell and Bacon do not teach to double-coat the perfume particles.

Birch teaches particles suitable for inclusion in a dry laundry product, comprising a core of swellable material, containing perfume absorbed therein, the core being coated with water-soluble encapsulating material impervious to the perfume. See abstract. The coating is to prevent premature evaporation or dissipation from the particles of the loaded perfume until the coating is dissolved on contact with water in use, and also teaches using modified starches. See col. 9, lines 27-63.

It would have been obvious to one of ordinary skill in the art at the time of the present invention to modify the encapsulated perfume particles by double coating the surface, as motivated by Birch, because the latter teaches that the double coating prevents premature evaporation or dissipation of the perfume from the particles until use. The skilled artisan would have had a reasonable expectation of successfully producing encapsulated particles with a longer shelf-life.

### ***Response to Arguments***

Applicant's arguments filed July 10, 2007 have been fully considered but they are not persuasive.

Applicants' remarks with respect to claim rejections made under 35 U.S.C. § 112, second paragraph and § 102 (b) and (e) are moot in view of claim amendment made by applicants.

Regarding the rejection made under 35 U.S.C. § 103 (a), applicants argue that the prior art references fail to teach a melamine-formaldehyde or acrylamide-acrylic acid co-polymer. The argument is not commensurate with the scope because the claims do

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not require any specific monomers of the "polymeric material" other than the cationic properties of the polymer. See instant claims 5 and 6.

***Conclusion***

No claims are allowed.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina C. Yu whose telephone number is 571-272-8605. The examiner can normally be reached on Monday through Friday, from 8:00AM until 5:30 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gina C. Yu  
Patent Examiner

A handwritten signature in black ink, appearing to read "Gina C. Yu", is written over a faint, rectangular stamp. The signature is fluid and cursive.